

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

-----: :
UNITED STATES OF AMERICA : :
 : :
-vs- : Case No. 1:17-cr-204
 : :
ROSEMBERG M. MAJANO :
and :
JOSE A. ORELLANA MONTALVO, :
Defendants. :
-----: :

PARTIAL TRANSCRIPT
(Counsel's Opening Statements)

November 28, 2017

Before: Liam O'Grady, USDC Judge

And a Jury

APPEARANCES:

Thomas W. Traxler and Dennis M. Fitzpatrick,
Counsel for the United States

Dwight E. Crawley, Counsel for Defendant Majano

Gregory B. English, Counsel for Defendant Orellana Montalvo
Defendants, R.M. Majano and J.A. Orellana Montalvo, in person

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NOTE: A portion of the case is heard on November 28, 2017 in the absence of the jury as follows:

JURY OUT

THE COURT: All right. Are we ready for our jury?

MR. FITZPATRICK: Yes, Your Honor.

MR. CRAWLEY: Yes.

MR. TRAXLER: Yes, Your Honor.

MR. ENGLISH: Yes, Your Honor.

THE COURT: All right. Joe, let's get our jury, please.

NOTE: At this point the jury returns to the courtroom; whereupon the case continues as follows:

JURY IN

THE COURT: All right, please be seated.

Opening statement, Mr. Fitzpatrick.

MR. FITZPATRICK: Thank you very much, Your Honor.

May it please the Court, Your Honor.

THE COURT: Yes, sir.

MR. FITZPATRICK: Thank you.

Good afternoon, ladies and gentlemen.

This case -- well, as Judge O'Grady explained to you, my job at this point is to lay out sort of a brief roadmap of what the Government's evidence will be in this case.

Ladies and gentlemen, this case is about a conspiracy, a criminal agreement to import from El Salvador

1 into the United States four kilograms of heroin and four
2 kilograms of cocaine. That's a lot of heroin, that's a lot of
3 cocaine.

4 You will hear testimony in this case that the
5 wholesale street value of that cocaine is approximately
6 \$400,000. The cocaine trafficking business, you will hear
7 testimony, is a money-making venture.

8 These two defendants in this case today, Mr.
9 Rosenberg Majano, the man seated right here, and Mr. Jose
10 Orellana Montalvo, the man seated at the back, were part of
11 that conspiracy. They played key roles.

12 Mr. Majano brought the cocaine and the heroin into
13 the United States from El Salvador on Avianca Flight 582 on
14 August 10, 2017. He arrived at Dulles Airport.

15 Mr. Orellana Montalvo was there to pick him up and
16 deliver the cocaine elsewhere, we submit to you, for further
17 distribution within Northern Virginia and within the D.C.
18 region.

19 Now, as I explained to you earlier, the cocaine and
20 heroin trafficking business is a money-making venture.
21 Everybody makes money. Some people make a lot of money, some
22 people make a little bit of money, but everybody makes money.
23 Some people make money on a fee-for-services basis. That could
24 be the case in this case.

25 As an example of why there is such a demand for

1 cocaine and heroin and why there is -- there are these criminal
2 conspiracies that engage in this, you will hear testimony in
3 this case that a kilogram of, let's say, cocaine, currently
4 costs about \$30,000 out on the streets of Northern Virginia and
5 in the D.C. region.

6 But when you extrapolate it out -- and a simple one
7 is when that cocaine gets sold, say in gram quantities, that
8 cocaine could be sold for \$65, \$85, \$100, whatever the market
9 will bear. That kilogram of cocaine, which is a thousand
10 grams, right, that turns into \$65,000, \$85,000, or \$100,000.
11 You will hear testimony in this case that that is sort of the
12 current market value of these drugs.

13 To further orient you, a kilogram of cocaine, a
14 kilogram of heroin is 1,000 grams, it's about 2.2 pounds.

15 So in this case we're talking about 17 pounds of
16 illegal controlled substances coming from El Salvador into the
17 streets of Northern Virginia and the wider D.C. region.

18 I want to take you through some of the evidence in
19 this case. And I think the best way to do it -- pardon me,
20 Your Honor -- is to walk you through just a few slides. And
21 you will see this in the evidence today.

22 Starting here, ladies and gentlemen, at about
23 12:41 -- it's a little difficult to read, but when the evidence
24 comes in in this case you will have this in the jury room. At
25 12:41, on a communication device called WhatsApp -- WhatsApp is

1 an encrypted communication device. It allows people
2 communicating -- it has end-to-end encryption. So it's a very
3 secure and private communication. These devices or these
4 messages were retrieved, ladies and gentlemen, in this case off
5 of Mr. Orellana Montalvo's phone after he was arrested on
6 August 10. You will see that the top message was delivered on
7 August 10, 2017, at 16:41 UTC.

8 Now, UTC is a standard time measurement. It is
9 Eastern Standard Time plus four. So 16:41 is actually 12:41 in
10 the afternoon.

11 What you notice from this message at the very top is
12 that a person by the name of Kamalion, K-a-m-a-l-i-o-n, at a
13 phone number that begins +503 -- that is an El Salvador
14 exchange. So this is a message coming from Kamalion in El
15 Salvador to Mr. Orellana Montalvo. And what he sends to Mr.
16 Orellana Montalvo are two photographs. And he sends
17 photographs of Mr. Majano.

18 Right at 12:41 you already see coordinated activity,
19 El Salvador to Orellana Montalvo sending pictures of Mr.
20 Majano, two pictures.

21 And you will notice on the second one, he writes to
22 Mr. Orellana Montalvo: That's the dude. Right?

23 And you will notice that the pictures are of Mr.
24 Majano, distinctive looking gentleman, broad shoulders, shaved
25 head, much as he looks like today. There is no way to mistake

1 Mr. Majano.

2 Below that you will see at 3:17 another message that
3 was sent. And then below that at 3:30 another message from
4 Kamalion to Mr. Orellana Montalvo. And that number that he is
5 sending, the 770-374-7042, that's Mr. Majano's phone number.
6 And you will have those phone records with you in evidence in
7 this case today.

8 So now the guy in El Salvador is sending Mr. Orellana
9 Montalvo the phone number of Mr. Majano. Coordinated activity.

10 And then right below that he says: Call that
11 number -- call. That number, then delete the call log. Delete
12 the call log after that.

13 One of the things I would ask you to remember in this
14 case, ladies and gentlemen, two things as you see the evidence
15 unfold, is that people lie for a reason and that people do
16 things for a certain reason. There is no such thing as a
17 coincidence in the drug trafficking world. Right?

18 So we have those messages at 12:41 and then again at
19 3:30. Right?

20 Moving on. Now, Mr. Majano, he arrived from El
21 Salvador at Dulles Airport, again on August 10, 2017, dead of
22 summer in Northern Virginia, and he goes, he goes to the
23 baggage claim area. Now, this baggage claim area still remains
24 in the International Arrivals area. These are only arriving
25 passengers. People picking up can't go back there. This is

1 the International -- dedicated to International Arrivals.

2 The person right in the middle there with the shaved
3 head wearing the black shirt and the distinctive white pants,
4 that's Mr. Majano. He's picking up a bag that he had just
5 received from that conveyor belt behind you. He will soon put
6 it down, you will see him, he's rolling it. It's actually too
7 heavy for him to carry. He ends up picking it is up for just a
8 moment and then rolling it. That has the 17 pounds of cocaine
9 and heroin. He transported it through Avianca Airlines into
10 Dulles Airport.

11 Right after this, as he is walking away to leave the
12 International Arrivals area -- Customs and Border Patrol do
13 roving operations within the airport. They have authority to
14 stop people, to enforce our customs laws, and to look for
15 unlawful contraband.

16 CBP Officer Rhazouani, who you will hear in this
17 case, will be our first witness, stopped Mr. Majano. And he
18 asked him a couple questions. What do you have with us -- what
19 do you have with you?

20 And then he asked him to come to the side. And then
21 he had him fill out a declaration form. And then he started
22 looking through the bag. And what he sees inside the bag are
23 these, nine pouches of something called Delisoya Powdered Milk,
24 and two bags of brown coffee.

25 Now, within this black bag, and you will have all

1 this in evidence, there was not much else. There were a couple
2 articles of clothing, some flotsam and jetsam, but
3 substantially it was the 11 pouches of food products, powdered
4 milk and ground coffee, that was in the bag.

5 Officer Rhazouani was curious about that, starts
6 asking him some questions. Mr. Majano says, well, the powdered
7 milk is for family, and the ground coffee is for me. And he
8 also says to Officer Rhazouani, I'm here to -- I'm here and I'm
9 going to meet my cousin.

10 Now, at the initial encounter, Mr. Majano and Officer
11 Rhazouani are getting along fine, they are happy with each
12 other, Mr. Majano is in good spirits.

13 Officer Rhazouani, it's not adding up to him. So he
14 opened -- he begins opening a package. And immediately Mr.
15 Majano's demeanor changes, he becomes nervous, less
16 communicative. Right? And this is visible, this is obvious to
17 Officer Rhazouani.

18 When he opened up the first package, he found another
19 sealed pouch in there that had either cocaine or heroin. This
20 is after it was collected together. This is the 17 pounds,
21 eight-plus kilograms of controlled substances after it was
22 removed from all those packages.

23 Drug dogs came in, drug dogs alerted. At about 3:10
24 Mr. Majano was arrested for importing this contraband. They
25 had done some preliminary testing, they had probable cause,

1 they arrested him.

2 At approximately 3:30 Agent Tarantino and his team
3 are called in to take over the investigation. Agent Tarantino
4 works for the Department of Homeland Security, Homeland
5 Security Investigations. They do the longer-term
6 investigations. They essentially pick up from Customs and
7 Border Protection. Customs and Border Protection are patrol
8 officers. They do longer-term investigations.

9 They come and meet with Mr. Majano, apprise him of
10 his Miranda rights. And Mr. Majano says, well, in fact, I was
11 being paid \$500 to bring this contraband into Dulles Airport,
12 and I was here to meet some guy named Steven Gutierrez.

13 Now, to be clear, he said he was coming in to deliver
14 the packages. He didn't say the cocaine, didn't say the
15 heroin.

16 But I submit to you that when you hear all the
17 evidence in the case, you will have no doubt that Mr. Majano
18 knew what he was bringing in, or at the barest minimum was
19 willfully blind to his activity. That he sort of ducked his
20 head in the sand and ignored what should have been obvious.
21 Right?

22 And again, ladies and gentlemen, people lie for a
23 reason. That's not what he told Officer Rhazouani when he
24 first was encountered.

25 Let's move on. Oh, and by the way, let me move back,

1 you will hardware from Lauren Munoz in this case, who is the
2 DEA analyst. Homeland Security then transported the drugs to
3 the DEA lab in Greenbelt, Maryland. It was analyzed.
4 Initially, Homeland Security and CBP, initially thought they
5 had eight kilograms of cocaine. When it was analyzed, it was
6 actually four kilograms of heroin and 3.85 kilograms of
7 cocaine.

8 All right. So there was a little bit more heroin
9 than cocaine. And then they separated it into different
10 packages. So it's clear which is heroin, which is cocaine.

11 You will hear testimony in this case that heroin,
12 which, unfortunately, is in very high demand these days, has a
13 much higher street wholesale value. A kilogram of heroin goes
14 for about \$75,000. And again, the total contraband in this
15 case is approximately \$400,000, just at the wholesale level.

16 This is where it gets interesting in this case. And
17 you will hear this evidence unfold over the next day and into
18 tomorrow perhaps. After Mr. Majano makes some preliminary
19 statements to Agent Tarantino, they say, well, can you see if
20 there is anyone here to pick you up? Mr. Majano agrees.

21 Then over the course of, oh, approximately the next
22 two to three hours, there is an interesting cat and mouse game
23 that goes on.

24 Now, remember, from 12:41 Mr. Orellana Montalvo knows
25 what Mr. Majano looks like, distinctive looking fellow. Right?

1 They are caught on surveillance camera -- again, HSI allows Mr.
2 Majano to go out there. They are tailing him because they want
3 to see who is the drug dealer that he was going to deliver it
4 to.

5 And in this photo -- you will see the longer
6 surveillance footage, but this is a snapshot here where Mr.
7 Majano is walking on the upper end of the photograph, sort of
8 going away from you in the paragraph, and Mr. Orellana Montalvo
9 is walking towards you. And he catches, he sees Mr. Majano.

10 What you are seeing there is he slowly makes a loop
11 and he starts to -- he starts going after him. He starts
12 following him.

13 This is a picture of Mr. Orellana Montalvo waiting
14 outside the airport. These agents are now focussing in on him,
15 they have identified him.

16 This is another picture of Mr. Orellana Montalvo.

17 Here we have more communications. So on this slide
18 Mr. -- and you notice, ladies and gentlemen, those prior
19 pictures, what was Mr. Orellana Montalvo wearing? A
20 distinctive red shirt and the baggy jeans. But the red shirt
21 sort of stood out. Remember that.

22 In this slide, ladies and gentlemen, this is a
23 communication between Orellana, the defendant in this case, and
24 Pops. There is a lot of communication with Pops. Remember, it
25 started with Kamalion, now it's Pops. A lot of communications

1 with Pops.

2 You will hear evidence in this case that throughout
3 the course of the day on August 10, there were more than 40
4 communications. Right? Now, some were dropped calls or some
5 were calls and no pickups, but there were 40 efforts going back
6 and forth. A lot of it on WhatsApp, the encrypted
7 communication device.

8 In this photograph -- or in this piece of evidence,
9 ladies and gentlemen, what you have is at 6:40 the defendant
10 Orellana Montalvo sends a communication to Pops and he says:
11 Call me. Right?

12 Now, it takes about 14 minutes, but at 6:54 you will
13 have phone records that that same phone number calls Mr.
14 Orellana Montalvo and they talk for about 50 seconds. That's
15 important.

16 And then about 16 minutes after that, Pops sends a
17 message back to Mr. Orellana Montalvo and he says: Okay, told
18 him to move to the hotel, Marriott, just make sure he has no
19 tail. Right? And then he sends a further cautionary chat: Be
20 on the lookout.

21 But at that time Mr. Majano did not go to the
22 Marriott. That is because he was being followed by Homeland
23 Security, and he had to do what Homeland Security wanted him to
24 do.

25 So there is an earlier communication where they say,

1 go to Pollo Compero. This communication was in about the
2 5 o'clock hour. Pollo Compero is a little chicken restaurant
3 on Elden Street in Herndon. It's about five or ten minutes
4 from Dulles Airport.

5 Mr. Majano goes there. And at the direction of HSI,
6 you will see the individual there in the red shirt with his
7 back to you in this photograph, that is Agent Culley, he is an
8 HSI agent working on this case. So he is in the restaurant
9 with Mr. Majano.

10 While those communications were going on -- remember
11 the prior ones that I told you about? Okay, I told him to go
12 to the Marriott, make sure he has no tail. Well, he doesn't
13 leave, he stays in Pollo Compero.

14 And Mr. Orellana gets impatient. He doesn't
15 understand why he is not picking up this dope. So he goes into
16 the Pollo Compero and he goes in there at about 7:35. And he
17 goes to the front counter, he orders some food, and then he
18 comes down. And what he's doing in this instance, you will
19 hear testimony of this, he's performing a little
20 countersurveillance. He's checking it out. Right.

21 The sum of this, you will hear testimony from the
22 agents, he's just driving around that area for a good hour,
23 just driving, you know, suspiciously. And he goes in there.

24 You will notice in this shot, and you will see this
25 whole video, he walks right past Mr. Majano. He knows who it

1 is, he just doesn't want to encounter him there because he's
2 checking it out. What did the earlier message say? Make sure
3 he doesn't have a tail, be on the lookout.

4 So he passes by. He goes back out. He eats his food
5 at about 7:41 outside. Gets back in his car and again starts
6 driving around.

7 Mr. Majano is told to go to the bus stop. Mr. Majano
8 takes his bag -- the black bag is empty now, they have taken
9 the dope already. He goes outside and he walks to the bus
10 stop. And he is standing at the bus stop, and Mr. Orellana
11 Montalvo walks up -- or, excuse me, drives up on Elden Street
12 in his white minivan and opens the door. And Mr. Majano is
13 supposed to get in. He doesn't get in.

14 Mr. Orellana Montalvo speeds off. HSI comes in
15 behind him. They pull him over at Van Buren Street off of
16 Elden, a few hundred yards away.

17 When he is pulled over, the agents see Mr. Orellana
18 Montalvo banging on his steering wheeling. And he is
19 exclaiming something. We're not sure what, but he is
20 exclaiming something. He is upset. People act for a reason.
21 Why is he reacting in that way? He got caught.

22 Now, what's interesting here -- remember, I told you
23 about the red shirt? What's he wearing here? A black shirt.
24 He has changed his shirt. Right? The red shirt was too
25 obvious.

1 What did they find in the white van after it was
2 searched? The red shirt stuffed in the glove box of the white
3 minivan. He changed his shirt. He didn't want to be noticed,
4 the red shirt was too obvious.

5 In addition, ladies and gentlemen, the HSI agents
6 discovered a small scale, it's a scale that has a capacity to
7 weigh out 600 grams, about a pound, I guess. I guess it is a
8 pound.

9 I will suggest to you that that scale is one of the
10 tools of the drug trafficking trade, its what people use to
11 sort of weigh out drugs for further distribution.

12 And in sum, ladies and gentlemen, that is a part of
13 the Government's evidence in this case.

14 I submit to you when you hear all the evidence in
15 this case, that you will find that these two defendants
16 conspired with each other within a larger organization to
17 fulfill certain goals, which was to move cocaine and heroin
18 into the Northern Virginia area.

19 Each defendant is charged with four counts. At the
20 conclusion of the case, ladies and gentlemen, my colleague, Mr.
21 Traxler, will have an opportunity to argue it to you. He will
22 tie it all up together.

23 But I am confident when you hear the evidence unfold
24 in this case, you will find these defendants guilty beyond a
25 reasonable doubt of all four charges that the United States has

1 brought against them.

2 Thank you very much.

3 THE COURT: All right. Thank you, Mr. Fitzpatrick.

4 Mr. Crawley.

5 MR. CRAWLEY: May it please the Court, Your Honor.

6 Ladies and gentlemen of the jury, good morning again.

7 My name is Dwight Crawley, and I represent Mr.

8 Rosenberg Majano.

9 Being stupid is not a crime. Doing something foolish
10 is not a crime.

11 Ladies and gentlemen, despite what the Government has
12 said to you this morning, the evidence will not show that my
13 client knew what was inside of those packages. In fact, to the
14 contrary, nothing about this case suggests that my client knew
15 what was in those packages. Those packages were clearly marked
16 soy milk, coffee.

17 The Government, with all of its resources, cannot
18 provide you with one call that suggests that my client knew
19 what was in those packages. They can't provide you with one
20 witness that will testify that my client knew what was in those
21 packages. They can't provide with you fingerprint information
22 to suggest -- or scientific information of any sort to suggest
23 that my client touched those packages, opened those packages,
24 put anything in those packages, pulled anything out of those
25 packages.

1 And they make a big deal about this notion that, hey,
2 once the agent opens up the packages at the airport, he becomes
3 nervous. Well, ladies and gentlemen, let me ask you, and you
4 will see from the evidence, think about it, if someone opened a
5 package and you didn't suspect that it had any contraband in
6 it, and then they pulled contraband out, what would your normal
7 reaction be? You probably would be nervous.

8 But what would your next action be? Your next action
9 would be, if you didn't do anything wrong, you would do what my
10 client did, you would cooperate with law enforcement. You
11 would tell them everything you know.

12 And that's what he did on August 10, he told them
13 everything he knew. But more than that, he assisted them. He
14 assisted them. But for his conduct, that gentleman would not
15 be sitting at this table.

16 You see, my client had to engage in this activity
17 with the Government to go after the people who were
18 responsible. And so, he went along with the Government's
19 statements -- I mean, the agents' directives, and he went along
20 with the calls. And he did everything that they asked him to
21 do.

22 And what did he get in return? He got a four-count
23 indictment, and now he sits here an innocent man. And at the
24 end of this case I believe you will hear all the evidence, and
25 you will make the only reasonable conclusion, which is that

1 this man was duped into doing something that he otherwise would
2 not have done.

3 And it's for those reasons I'm going to ask you to
4 return a verdict of not guilty.

5 Thank you.

6 THE COURT: Thank you, Mr. Crawley.

7 Mr. English.

8 MR. ENGLISH: Thank you, Your Honor.

9 Good afternoon, ladies and gentlemen. My name is
10 Greg English. I represent the gentleman sitting right here,
11 Alex Orellana.

12 And let me explain something about his name to start
13 with. The name on the indictment is Jose, which is Spanish for
14 Joseph. Middle name Alejandro, which is Spanish for Alexander.
15 Orellana, it looks like Orellana, it's O-r-e-l-l-a-n-a. In
16 Spanish, the two Ls are pronounced as a Y. So it's Orellana.
17 And then the last name, Montalvo.

18 He is an American citizen. He has been here since he
19 was a child. He has been Anglicized or Americanized. He uses
20 the nickname of Alex, that's what his friends and family call
21 him.

22 The custom for many Hispanics is to have your
23 father's name. Like a former prosecutor who was in the office,
24 he was Jose Rios Torrez. Rios was his father's name. We
25 called him George Rios. Torrez was his mother's name.

1 In this case, we call my client the nickname Alex and
2 Orellana, his father's name. And in his case, the Montalvo is
3 his stepfather's name.

4 So what we call him looks a little different than
5 what is said on the indictment. It's not like a yuppy
6 hyphenated name where we call him Orellana-Montalvo. It's
7 simply Orellana.

8 And I would like to point out, I just represent him.
9 I don't represent the co-defendant. Because these gentlemen
10 were indicted together, they are being tried together. What
11 you have here is basically two simultaneous trials going on.
12 And the judge will instruct you, you need to judge each
13 defendant separately and each count separately in this case.

14 I also should warn you that in my case, nature has
15 played a bit of a joke. For a big guy, I have a soft voice. I
16 am sometimes hard to understand. So if you ever have trouble
17 hearing me, I would appreciate it if you could signal and I
18 will try to stand closer to the microphone or to speak louder
19 in the case.

20 Now, as Judge O'Grady told you, if you see my client
21 or I in the cafeteria or on the elevator, we won't speak to
22 you. We might nod, or the most we would ever say is hello. We
23 are not trying to be snobs or standoffish or anything, but
24 that's because of the rules of the court.

25 Because we're lawyers, we have a fancy name for this,

1 it's called an ex parte contact. It means without the other
2 party. Under our rules, we can only talk to you if the
3 opposing party is present and the judge is present to referee.

4 So as much as we would like to talk about some of the
5 problems with leadership in Washington, for example, should
6 Kirk Cousins get a new contract anytime soon, we're not able to
7 because of the rules of the court. So please don't think we're
8 being rude, we're not.

9 Now, as Judge O'Grady also told you, an indictment is
10 simply an accusation. An indictment is the formal method by
11 which people are brought to trial. An indictment informs them
12 of what charge they have to answer. That's why we're here.

13 Some of the people who are indicted are guilty and
14 some are innocent, and you have to sort out which is which.
15 And you may remember some years ago when members of the Duke
16 lacrosse team were indicted for rape, they were tried by
17 newspaper and found guilty, but when the case was over, the
18 charges against them were dismissed and the prosecutor was
19 disbarred.

20 So what I am saying is, you have to hear all of the
21 evidence in this case before making a decision. And in that
22 regard, if we were to say to you, ladies and gentlemen, you've
23 heard the opening statements from both sides, how would you
24 vote? And you would say, gee, Greg, I haven't heard the
25 evidence yet, I don't have an opinion.

1 Well, as a matter of law, that's wrong because my
2 client is presumed to be innocent. That means the scales of
3 justice are tilted like this in his favor. And that remains
4 that way until the prosecution can prove by evidence,
5 convincing evidence, legal evidence beyond a reasonable doubt
6 that he is guilty. It then changes and you can say, well, he's
7 guilty because they have proven it. Which, we submit, won't
8 happen in this case.

9 So if you were to vote right now, the only verdict
10 you could return is not guilty because you've heard no evidence
11 from the Government to prove anything beyond a reasonable
12 doubt.

13 Now, as my client sits here, he has a constitutional
14 right, it's the Fifth Amendment to the Constitution, not to
15 testify in this case. He will, he will tell you what happened
16 in this case.

17 He will tell you that before August 10, he went to El
18 Salvador where his stepfather and his mother were. His
19 stepfather had been there for sometime renovating a house that
20 they had. They had had a tenant for some years, he left, and
21 they wanted to sell it. And he called his dad and said -- he
22 had a disagreement with his girlfriend and he was upset. And
23 his dad said, look, I'll get a ticket, I'll pay for you to come
24 here, and you can help me renovate the house.

25 So he went to El Salvador where he was born for a few

1 days. While he was there, he went to a party. One of his
2 father's friends had a celebration for the daughter turning --
3 his daughter turning 15. My client went there with his dad.
4 He met a guy named Kevin. Excuse me, bad year, bad time for
5 allergies for me, and I apologize for the interruption.

6 Kevin's uncle is also a friend of his dad, he runs a
7 hardware store where he has bought stuff for years. And during
8 the renovations of the house, he bought numerous things. Well,
9 to make a long story short, they exchanged numbers while they
10 were there.

11 Now, on August 10, the day of the arrest, my client
12 gets a telephone call from this guy he knows as Kevin. He asks
13 him, please, pick up a friend at the airport. He says, the
14 friend doesn't speak English, he just speaks Spanish, and the
15 ride we had for him fell through. He told my client, and he'll
16 testify, he said, I'll give you \$100 for your trouble and I
17 will give \$50 for expenses. The expenses being gas, tolls, and
18 parking.

19 So he agreed to go to Dulles Airport to pick this guy
20 up. You will see and the evidence will show, my client's a
21 very gullible young man. And I am trying to think of a
22 politically correct way to say this, he's a little slow. He
23 was traumatized when he was a child before his family came to
24 America when there was a drive-by shooting and he was shot
25 twice, stray bullets hit him. He wasn't involved in anything,

1 obviously, he was a child.

2 His parents have babied him because of that. He had
3 difficulties in school. He took special ed. He went to a
4 special school because he was having trouble learning to read
5 and to write. He spent six months in this military school
6 environment. And even when that was done, he tried to take the
7 GED, but he didn't pass it. He is easy to manipulate. And you
8 will see him testify and you can judge for yourself how
9 sophisticated he is and how quick he is.

10 In any event, Kevin told him to pick this guy up. He
11 sent him pictures of the person so he would know what he looked
12 like.

13 He didn't have his car anymore. He had a 20-year-old
14 beater that he had sold for about a thousand dollars. He had
15 some of the money on him when he went to the airport. He took
16 his parents' car, he had driven his mother to the airport in
17 their van when she went to join his dad in El Salvador. And he
18 drove the van, the typical family van to the airport.

19 He went to Dulles, he couldn't find the guy. He gave
20 up, he started to drive away. He got to the beltway. He
21 talked to this Kevin guy. He said, no, the guy is in a chicken
22 place, told him where it was. And he drove around looking for
23 the guy. And when he finally saw him and he drove up to him,
24 he didn't like the looks of the guy, and he was disturbed when
25 he looked at an e-mail and said, this isn't right, so I'm

1 leaving. So he drove away without ever having any contact with
2 the person.

3 Obviously, this guy Kevin is pulling the strings, was
4 getting someone who didn't know there were any drugs being
5 brought by someone, didn't know the other person, had never
6 seen the co-defendant in his life before that day, and was sent
7 to the airport to pick up someone.

8 He never expected anyone would have drugs. And I
9 submit to you, who would? We all know after 9/11 what it's
10 like to go through an airport where there are sniffer dogs, and
11 where there is security. And when you go through it, if
12 someone comes out of Customs coming into America, you would
13 think they wouldn't have any dope on them or any guns on them
14 or any kind of contraband.

15 The same way if someone asked you to pick up someone
16 at this courthouse after what you went through to get in here
17 today, you can be pretty sure that when they walk out and you
18 give them a ride, they're not going to have any guns or any
19 drugs on them either because they have been scanned and
20 x-rayed.

21 So basically what this case is about, someone
22 manipulated my client, who they realized wasn't that swift and
23 was gullible enough to go pick someone at an airport. They
24 promised to pay him \$150 for his efforts for the case.

25 So I ask, when you've heard all of the evidence in

1 the case, you will see there is no evidence of any kind of a
2 conspiracy. My client is simply a victim of a manipulator.
3 And because of that, I would ask you to find him not guilty.

4 Thank you.

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PARTIAL TRANSCRIPT CONCLUDED

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20 I certify that the foregoing is a true and
21 accurate transcription of my stenographic notes.

22
23 /s/ Norman B. Linnell
24 Norman B. Linnell, RPR, CM, VCE, FCRR
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